

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION No.: 05-CV-10488-JLA

TIMOTHY HILLS,	)
Plaintiff,	)
	)
VS.	)
	)
TOWN OF STOUGHTON,	)
DAVID M. COHEN, Individually and	)
MANUEL CACHOPA, Individually	)
Defendant.	)
	)

**JOINT MOTION BY ALL PARTIES TO EXTEND THE TRACKING ORDER**

NOW comes the parties in the above-entitled action and respectfully moves this Honorable Court to amend the tracking order and extend the discovery deadline for at least four months so that the parties involved can complete discovery in this matter. A status conference is scheduled with the Court for next month on July 17, 2007 and the parties are set to appear on that date to update the Court on the status of this case.

Again, as the Court knows there are criminal charges pending against the individual defendants, who have essentially all of the knowledge concerning the facts of this case, and recently it has been discovered that the criminal trials are set to go forward on June 18, 2007.

Attached please find a memorandum in support of this motion.

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Dated: June 8, 2007

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**MEMORANDUM IN SUPPORT OF JOINT MOTION BY ALL PARTIES TO  
EXTEND THE TRACKING ORDER**

The Plaintiff in this matter, Mr. Hills, filed a Verified Complaint in Norfolk Superior Court on December 9, 2004 alleging civil rights violations, harassment, false imprisonment, infliction of emotional distress, assault, battery, invasion of privacy and deceit and fraud in connection with incidents that occurred in April of 2002. The original Complaint was filed against the Town of Stoughton and was removed to the United States District Court soon thereafter by the town. The Plaintiff amended his Complaint on or about September 13, 2005 to include David M. Cohen and Manuel Cachopa, individually. Since that date, the two individual defendants have retained separate counsel in regards to this civil matter.

As the Court is aware, the factual allegations surrounding this matter are also the subject of a criminal case involving the two individual defendants. The Attorney General's office assigned a special prosecutor to investigate the criminal allegations

against these defendants. Both David M. Cohen and Manuel Cachopa have been indicted in Norfolk Superior Court and these criminal cases are still pending. On previous occasions, these criminal trials were scheduled to take place in February of 2007 and then in April of 2007. Recently, it has come to the attention of all counsel in this matter that the criminal trials are now set for June 18, 2007.

In light of the criminal proceedings, this Court issued a protective order for the two individual defendants prohibiting them from responding to discovery or testifying in a deposition in this civil matter. In addition, the parties have agreed that the plaintiff need not respond to discovery requests of the individual defendants until the criminal matters are resolved and all parties can engage in a meaningful discovery process.

### **ARGUMENT**

Due to the individual defendants' pending criminal cases in Norfolk Superior Court, they have asserted their Fifth Amendment privilege against self-incrimination, which is well within their right. However, due to the delay of the criminal trials, the Plaintiff has been unable to conduct any discovery vise-a-vie these defendants and it is the plaintiff's position that they possess nearly all the factual information surrounding the allegations made by the plaintiff. In addition, counsel for the individual defendants in this case have been unable to even meet or have any meaningful discussions with their clients concerning these allegations because the same set of facts are part of the pending criminal cases. Lastly, this Court has issued a protective order for both Mr. Cohen and Mr. Cachopa so that they do not have to

engage in or provide discovery in this matter until the underlying criminal cases are resolved.

It is the position of all parties involved in the instant case that the right to conduct discovery not be hindered or precluded because of this underlying criminal matter. As such, the parties state that discovery has not been completed in this matter and has been stayed pending the outcome of the underlying criminal cases of Mr. Cohen and Mr. Cachopa. In addition, no parties will be prejudiced by amending the tracking order and all parties assent to the within motion. Therefore, the parties respectfully request that the tracking order be amended to provide an additional four or five months for discovery in this matter, which parties hope to get underway by July of 2007.

WHEREFORE, the parties respectfully request that the tracking order in this matter be amended and the discovery deadline be extended and/or stayed pending the outcome of the underlying criminal matters connected to this case.

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Dated: June 8, 2007

**CERTIFICATE OF SERVICE**

I, Sarah F. Jubinville, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants upon receipt of notification of same from the court.

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Dated: June 8, 2007